

1 1130  
2 WILLIAM D. NAEVE, ESQ.  
3 Nevada Bar No. 7837  
4 AMY E. JONES, ESQ.  
5 Nevada Bar No. 8517  
6 COTKIN & COLLINS  
7 A PROFESSIONAL CORPORATION  
8 701 Bridger Avenue, Suite 700  
9 Las Vegas, Nevada 89101  
10 Telephone (702) 384-1722  
11  
12 Attorneys for Defendant,  
13 METROPOLITAN LIFE INSURANCE COMPANY  
14  
15  
16  
17  
18

19 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
20 IN AND FOR THE COUNTY OF WASHOE

21 KATHRYN CLAIRE CAMPBELL,  
22 Plaintiff,  
23

24 vs.

25 CATHERINE WERNER; SHARON D.  
26 CAMPBELL; METROPOLITAN LIFE  
27 INSURANCE COMPANY, a Foreign  
28 corporation; and DOES I-V,  
Defendants.

CASE NO.: . CV 07 01631  
DEPT.: I

19 **DEFENDANT METROPOLITAN LIFE INSURANCE COMPANY'S**  
20 **ANSWER TO COMPLAINT FOR DECLARATORY RELIEF**  
21

22 Defendant METROPOLITAN LIFE INSURANCE COMPANY (hereinafter  
23 "Defendant" or "METLIFE") by and through its attorneys of record, William D. Naeve  
24 and Amy E. Jones, of the law firm of Cotkin & Collins, and in answer to the Complaint  
25 for Declaratory Relief filed by Plaintiff KATHRYN CLAIRE CAMPBELL  
26 ("Plaintiff") in the above-captioned matter, does herein admit, deny, and allege as  
27 follows:  
28

///

1           1.     In response to paragraph 1, this answering Defendant denies each and  
2 every allegation contained in said paragraph because, although a beneficiary form on  
3 file identifies this 20% share, Defendant CATHERINE WERNER ("WERNER") is  
4 contesting this share based on factual and legal disputes as to the entitlement to the  
5 funds.

6           2.     In response to paragraph 2, this answering Defendant admits that plaintiff  
7 is a named beneficiary of a 10% interest in the life insurance policy which serves as the  
8 subject matter of this declaratory judgment action. This answering Defendant alleges  
9 that it does not have sufficient information and belief in order to enable it to ascertain  
10 the veracity of the remaining allegations contained within this paragraph, and based  
11 upon such lack of information and belief denies, both generally and specifically, each  
12 and every remaining allegation contained therein, and the whole thereof.

13          3.     In response to paragraph 3, this answering Defendant admits that  
14 Defendant SHARON D. CAMPELL is a resident of North Carolina. Except as is  
15 expressly admitted herein above, this answering Defendant denies, both generally and  
16 specifically, each and every remaining allegation contained in said paragraph because  
17 although a beneficiary form on file identifies this 10% share, Defendant WERNER is  
18 contesting this share based on factual and legal disputes as to the entitlement to the  
19 funds.

20          4.     In response to paragraph 4, this answering Defendant admits that  
21 METLIFE is a foreign corporation qualified to do business in Missouri and Nevada.  
22 This answering Defendant denies the remainder of this paragraph.

23          5.     In response to paragraph 5, this answering Defendant denies each and  
24 every allegation contained in said paragraph because no DOES would be appropriate  
25 defendants in this case.

26          6.     In response to paragraph 6, this answering Defendant denies, both  
27 generally and specifically, each and every allegation contained therein, and the whole  
28 thereof.

1           7.     In response to paragraphs 7, 8, and 9, this answering Defendant admits  
2 same.

3           8.     In response to paragraph 10, this answering Defendant denies each and  
4 every allegation contained in said paragraph in that the letter speaks for itself.

5           9.     In response to paragraph 11, this answering Defendant admits that  
6 Plaintiff claimed entitlement to 20% of the life insurance proceeds. This answering  
7 Defendant denies the reminder of this paragraph.

8           10.    In response to paragraph 12, this answering Defendant admits that  
9 Defendant WERNER has submitted writings in opposition to the distribution of the  
10 20% share to Plaintiff.

11          11.    In response to paragraph 13, this answering Defendant admits that  
12 Defendant WERNER has submitted writings in opposition to the distribution of the  
13 10% share to Defendant SHARON D. CAMPBELL.

14          12.    In response to paragraph 14, this answering Defendant admits that  
15 METROPOLITAN LIFE INSURANCE COMPANY has not paid the 20% share  
16 because of the conflicting claims of Defendant WERNER and Plaintiff which  
17 necessitated the filing of a Complaint in Interpleader in the United States District Court  
18 for the Southern District of New York. This answering Defendant denies the remainder  
19 of this paragraph

20          13.    In response to paragraph 15, this answering Defendant admits that  
21 METROPOLITAN LIFE INSURANCE COMPANY has not paid the 10% share  
22 because of the conflicting claims filed by Defendants WERNER and SHARON D.  
23 CAMPBELL, and each of them, which necessitated the filing of a Complaint in  
24 Interpleader in the United States District Court for the Southern District of New York.  
25 This answering Defendant denies the remainder of this paragraph.

26          14.    In response to paragraphs 16 and 17, this answering Defendant denies  
27 each and every allegation contained in said paragraphs, and further adds that METLIFE  
28 ///

1 is withholding the proceeds and has filed a Complaint in Interpleader under 28 U.S.C.  
2 § § 1335 and 2361 in the Southern District of New York Federal Court because there  
3 are factual and legal disputes as to who should receive the proceeds.  
4

5 **FIRST CLAIM FOR RELIEF**  
6 **(Declaratory Relief Against All Defendants)**

7 15. In response to paragraph 18, this answering Defendant repeats and  
8 realleges its answers to the allegations contained within paragraphs 1 through 17 of  
9 Plaintiff's Complaint as if the same were more fully set forth herein.

10 16. In response to paragraphs 19 and 20, this answering Defendant  
11 admits same.

12 17. In response to paragraph 21, this answering Defendant denies, both  
13 generally and specifically, each and every allegation contained within said paragraph as  
14 phrased.

15 18. In response to paragraph 22, this answering Defendant denies each and  
16 every allegation contained in said paragraph in that the proper jurisdiction to issue such  
17 a Declaratory Judgment and provide the relief sought within plaintiff's instant  
18 Complaint is through the Complaint in Interpleader filed by this answering Defendant  
19 in the United States District Court for the Southern District of New York.

20 19. In response to paragraphs 23 and 24, this answering Defendant denies  
21 each and every allegation contained in said paragraphs, which are conclusions of law,  
22 and Defendant METLIFE adds that the proper jurisdiction to issue such a Declaratory  
23 Judgment and provide the relief sought within plaintiff's instant Complaint is through  
24 the Complaint in Interpleader filed by this answering Defendant in the United States  
25 District Court for the Southern District of New York.

26 ///

27 ///

28 ///

**AFFIRMATIVE DEFENSES**

1  
2 1. The Federal Court for the Southern District of New York has the  
3 jurisdiction to decide the conflicting claims, pursuant to 28 U.S.C. § § 1335 and 2361.

4 2. Defendant METLIFE has filed a statutory interpleader action pursuant to  
5 28 U.S.C. § 1335 and will seek a restraining order pursuant to 28 U.S.C. § § 1335 and  
6 2361 to enjoin the instant action.

7 3. Defendant METLIFE has no liability beyond the 30% share to be divided  
8 between Plaintiff KATHRYN CLAIRE CAMPBELL, and Defendants CATHERINE  
9 WERNER and SHARON D. CAMPBELL.

10 4. Defendant METLIFE is entitled to a dismissal with prejudice of all claims  
11 submitted by all parties to this matter and any of their assignees and representatives.

12 5. This Court should abate prosecution of this action and refuse to exercise  
13 its equitable jurisdiction herein in light of the interpleader action pending in the United  
14 States District Court for the Southern District of New York.

15 6. Defendant METLIFE alleges that Plaintiff is barred from recovering the  
16 relief sought in her Complaint by reason of the doctrine of estoppel.

17 7. Defendant METLIFE alleges that Plaintiff is barred from recovering the  
18 relief sought in her Complaint by reason of the doctrine of waiver.

19 8. Defendant METLIFE alleges that Plaintiff is barred from recovering the  
20 relief sought in her Complaint by reason of the doctrine of unclean hands.

21 9. Defendant METLIFE alleges that Plaintiff is barred from recovering the  
22 relief sought in her Complaint by reason of the doctrine of laches.

23 10. Defendant METLIFE alleges that Plaintiff is barred from recovering the  
24 relief sought in her Complaint inasmuch as the equities do not preponderate in her favor  
25 but, rather, preponderate in favor of this answering Defendant.

26 ///

27 ///

28 ///

1       **WHEREFORE**, this answering Defendant, METROPOLITAN LIFE  
2 INSURANCE COMPANY, prays for relief as follows:

3           1.     For declaratory relief enjoining this action because the Federal Court for  
4 the Southern District of New York will decide the conflicting claims pursuant to  
5 28 U.S.C. § § 1335 and 2361.

6           2.     For a declaratory judgment affirming and recognizing the decision of the  
7 Federal Court for the Southern District of New York as resolving the dispute over the  
8 remaining 30% of the proceeds and releasing it from all claims by Plaintiff KATHRYN  
9 CLAIRE CAMPBELL, and Defendants CATHERINE WERNER and SHARON D.  
10 CAMPBELL and any of their assignees and representatives;

11           3.     For reimbursement of its costs of court and attorneys' fees; and

12           4.     For such other and further relief as the Southern District of New York and  
13 this Court find just and proper.

14  
15 DATED: August 31, 2007

COTKIN & COLLINS  
A PROFESSIONAL CORPORATION

16  
17  
18 By:  #9610 for

19 WILLIAM D. NAEVE, ESQ.

Nevada Bar No. 7837

20 AMY E. JONES, ESQ.

Nevada Bar No. 8517

21 COTKIN & COLLINS

701 Bridger Avenue, Suite 700

22 Las Vegas, Nevada 89101

(702) 384-1722

23  
24 Attorneys for Defendant, METROPOLITAN  
LIFE INSURANCE COMPANY  
25  
26  
27  
28

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 31<sup>st</sup> day of August 2007, I served a copy of the **DEFENDANT METROPOLITAN LIFE INSURANCE COMPANY'S ANSWER TO COMPLAINT FOR DECLARATORY RELIEF** upon each of the parties by depositing a copy of same in a sealed envelope in the United States Post Office, first-class postage fully prepaid, and addressed to those counsel of record:

Barry L. Breslow, Esq.  
Natalie J. Reed, Esq.  
ROBISON, BELAUSTEGUI, SHARP  
& LOW  
71 Washington Street  
Reno, NV 89503

Counsel for Plaintiff  
KATHRYN CLAIRE CAMPBELL  
Tel: (775)329-3151  
Fax: (775)329-7941

Sandra G. Lawrence, Esq.  
Paul Cotsonis, Esq.  
DYER, LAWRENCE, PENROSE  
FLAHERTY & DONALSON  
2805 North Mountain Street  
Carson City, NV 89703

Counsel for Defendant and  
Cross-Claimant  
CATHERINE WERNER  
Tel: (775) 885-1896  
Fax: (775) 885-8728

Lance N. McKenzie, Esq.  
AVANSINO, MELARKEY, KNOBEL  
& MULLIGAN  
4795 Caughlin Pkwy, Suite 100  
Reno, NV 89509

Counsel for Defendant  
and Cross-Claimant  
SHARON D. CAMPBELL  
Tel: (775)333-0300  
Fax: (775)330-0305

  
Dawn Allen, an employee of  
COTKIN & COLLINS